

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM**

EXECUTIVE SUMMARY FOR BER BRIEFING ON TOP-DOWN BACT

Agenda # _____

Agenda Item Summary: In its decision on the Roundup Power project's air quality permit appeal, the Board gave direction to the Department to develop a top-down BACT rule. The proposed rule would incorporate by reference the top-down five-step process for BACT analysis as set forth in the *New Source Review Workshop Manual - Draft October 1990 (NSR Manual)*. This process has been adapted for use in Montana, as described in the draft *Montana Top-Down Best Available Control Technology (BACT) Analysis Process and Procedures Manual - 2003 Edition (MT BACT Manual)*.

List of Affected Rules: ARM 17.8.748 and 17.8.767.

Affected Parties Summary: A top-down BACT rule could affect all applicants for Montana air quality permits.

Scope of Proposed Proceeding: In response to the Board's request, the Department is presenting a briefing paper on a draft top-down BACT rule.

Background: At its meeting on June 23, 2003, the Board adopted the Findings of Fact, Conclusions of Law, and Order in the Roundup Power project's air quality permit appeal. On page 18, lines 25 through 27, the decision states: "The Department should propose the initiation of rulemaking to adopt the top-down five-step method."

The top-down process provides that all available control technologies be ranked in descending order of control effectiveness. That alternative is established as BACT unless the applicant demonstrates, and the Department agrees, that technical considerations, or energy, environmental, or economic impacts justify a conclusion that the most stringent technology is not "achievable" in that case. If the most stringent technology is eliminated in this fashion, then the next most stringent alternative is considered, and so on.

This draft will require applicants for Montana Air Quality Permits to submit a detailed top-down BACT analysis for each permitting action resulting in a net emissions increase at the source. The analysis procedures are detailed in the *Montana Top-Down Best Available Control Technology (BACT) Analysis Process and Procedures Manual – 2003 Edition (MT BACT Manual)*. This draft manual has been adapted from the federal *New Source Review Workshop Manual - Draft October 1990 (NSR Manual)*.

In the draft, the Department provided three source categories to be considered for rule applicability. These categories include:

1. Any applicant undergoing any Montana air quality permitting action resulting in increased emissions, including:
 - a. Minor sources as defined in ARM Title 17, chapter 8, subchapter 7;
 - b. Major sources as defined in ARM Title 17, chapter 8, subchapter 12; and
 - c. Major sources as defined in ARM Title 17, chapter 8, subchapter(s) 8, 9,

- and/or 10;
2. Any major source applicant, as defined under ARM Title 17, chapter 8, subchapter 12, undergoing any Montana air quality permit action resulting in increased emissions; and
3. Only major source applicants undergoing a major permit action as defined in ARM Title 17, chapter 8, subchapter(s) 8, 9, and/or 10.

Hearing Information: Not applicable.

Board Options: The Board may:

1. Direct the Department to prepare a MAR notice to initiate rulemaking at a future Board meeting;
2. Determine that the adoption of rules is not appropriate and decline to initiate rulemaking; or
3. Direct the Department to study the issue further.

ENCLOSURE: The following information is attached to this summary:

1. Draft rule text with three options;
2. Draft *MT BACT Manual*.